

7M/0451031



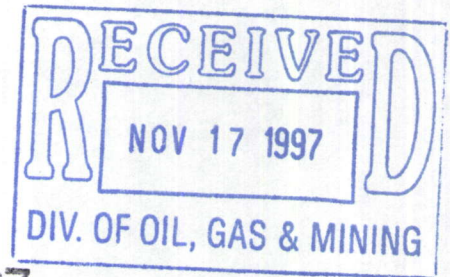
United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salt Lake District Office
2370 South 2300 West
Salt Lake City, Utah 84119

IN REPLY REFER TO:

3809
U-69243
(UT-023)



NOV 18 1997

CERTIFIED MAIL P 443 670 515
RETURN RECEIPT REQUESTED

DECISION

Mr. Lon Thomas	:	
American Stone, Inc.	:	43 CFR 3809
4040 South 300 West	:	Establishment of a Record
Salt Lake City, UT 84107	:	of Noncompliance

On October 26, 1988, you were notified by this office that you were in noncompliance for failure to file a Notice or Plan of Operations for ongoing milling activities on your Aragonite MS #5-7 millsites located in T. 1 S., R. 10 W., Section 8 (UMC 252994-252996). Under a reclamation plan submitted by you, and accepted by this office on October 21, 1991, you were required to reclaim certain portions of the millsite, and to reduce the size of your surface disturbance to 5 acres by May 1, 1995. Because you had filed the required reclamation plan, the Notice of Noncompliance was rescinded on October 21, 1991.

During an inspection of the Aragonite Millsite area on July 29, 1997, it became apparent that the site used for your milling activities had not been reclaimed to 5 acres, as stated in the reclamation plan you submitted to this office. The surface disturbance associated with your milling activities still covered an area at least 12.94 acres in size. In addition to your permanent and temporary buildings on the millsite, the area disturbed by your milling activities included an estimated 8 to 10 acres where the surface had been either compacted, buried beneath stockpiles and waste, or had been disturbed by scraping and ripping during milling and loading activities. Stockpiles of waste rock, ore, trash, and miscellaneous debris covered the site. At the time of this inspection, the millsite was being used for the storage of at least 500 wooden railroad ties, numerous old tires, crushed storage tanks, dilapidated and uninhabitable trailers, boxcars, inoperable vehicles, and numerous piles of junk, trash, wood, and aragonite ore. The mill structure appeared to have been idle and inoperable for many years, with unusable electric conveyor motors, broken conveyors and conveyor belts, and a disconnected electrical system with the wires either pulled out of their connectors or cut. Openings in the mill structure were filled with tumbleweeds. The stairway leading to the top of the mill structure had been cut off about 6 feet above the ground making access to the upper portion of the mill impossible. There were also several broken wooden steps on the stairway providing further evidence that the mill building was in an unusable condition. The adjacent

mill storage building was also found to be in a dilapidated condition, with the metal roofing partially blown away by the wind, with all of the skylights broken out, and with the supporting walls full of holes. Within the building, the bagging system was found to be inoperable and the equipment was filled with tumbleweeds.

During an inspection of the site on July 31, 1997, diesel fuel was found to be leaking onto the ground from a green diesel storage tank, creating a hazardous material site. There was also oil from a recent oil change dumped onto the concrete floor inside a dilapidated quonset hut.

You received a certified letter from this office on August 4, 1997, placing you in Noncompliance for failure to reclaim the surface disturbance at the Aragonite millsite to 5 acres as you agreed to do in your submitted reclamation plan, and for activities at the millsite that have resulted in unnecessary and undue degradation of Public Lands. In that letter, you were given 30 days to remove the leaking diesel fuel tank and miscellaneous tires, inoperable vehicles, railroad ties, trash, trailers, junk, etc., and submit a Plan of Operations that would describe your present operation at the millsite. On August 4, 1997 you called this office and requested an additional 30 days to complete the millsite clean up. Your request for an extension was granted, with the clean up activities to be completed by October 4, 1997. On October 2, 1997, you requested and were given an additional 15 days (through October 19, 1997) to complete the required clean up. On October 22, 1997, 3 days past the deadline, you requested and were given a final date of November 6, 1997, to complete all of the required reclamation activities at the site, and to complete other requirements as outlined in our letter of August 4, 1997. Follow-up inspections of the subject millsite have been conducted by this office throughout the entire period from August 4 through November 12, 1997. As a direct result of these inspections, we have determined that the Aragonite millsite has not been satisfactorily reclaimed, nor has a Plan of Operations been submitted to this office, as required in our letter of August 4, 1997.

An inspection of the site on November 12, 1997 revealed that the leaking diesel fuel storage tank has not been removed from the site as required, but has been moved into the dilapidated quonset hut and placed atop the site of another oil spill that you were also required to clean up. In addition, the soil beneath the leaking diesel fuel storage tank (its original location) has not been cleaned up and removed from the site, as required. For failure to reclaim the Aragonite millsite and complete other requirements outlined in the Notice of Noncompliance, you have established a Record of Noncompliance as of November 12, 1997.

A Record of Noncompliance means that you will have to file a Plan of Operations and a 100 percent reclamation bond with the Bureau of Land Management (BLM) for all existing mining activity in excess of casual use conducted on BLM-administered lands nationwide. Within the Salt Lake District, this would include your rock collecting activities near Rosebud (case file U-72281), and on your Lionheart claims (case file U-72299). The State Director, BLM, will subsequently be determining the duration of your Record of Noncompliance.

An appeal from this decision may be taken to the State Director, Utah State Office, BLM, in accordance with the provisions in Title 43 of the Code of Federal Regulations (CFR) Subpart

3809.4. If an appeal is taken, the notice of appeal must be filed in this office at 2370 South, 2300 West, Salt Lake City, Utah, 84119 within thirty (30) days from receipt of this decision.

Do not send the notice of appeal to the State Director. The appeal and the case history will be sent to the State Director from this office. The appeal to the State Director must contain:

1) the name and mailing address of the appellant; 2) when applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claim(s) recorded pursuant to Section 3833 of this title which are subject to appeal; and 3) a statement of reasons for appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations.

During the appeal to the State Director, all decisions from which the appeal is taken shall be effective during the pendency of the appeal.

If no appeal is taken, this decision constitutes final administrative action of this Department, as it affects the millsite(s). No appeal, protest, or petition for reconsideration will be entertained from this decision after the appeal period has expired.

If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

/s/ Margaret Wyatt

Margaret Wyatt
Area Manager

Enclosure

cc: D. Wayne Hedberg, UDOGM
Utah State Office (UT-921)